

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMAR BURNO,

Plaintiff,

Case No. 14-12262

v.

Hon. John Corbett O'Meara

MICHAEL ANGELO, *et al.*,

Defendants.

**ORDER ADOPTING REPORT
AND RECOMMENDATION IN PART**

Before the court is Magistrate Judge Mona K. Majzoub's report and recommendation dated December 8, 2015. Plaintiff filed an objection on December 14, 2015.

Magistrate Judge Majzoub recommends that Defendants Michael Angelo, Pacific Marketing, Inc., John Does 1-10, and XYZ Corporations 1-10 be dismissed from this action with prejudice because these defendants have not been timely served pursuant to Fed. R. Civ. P. 4(m). Plaintiff objects that he filed this lawsuit pro se, and that his newly obtained counsel has determined that these defendants are not subject to the court's jurisdiction. Plaintiff requests that the dismissal be *without* prejudice.

With respect to reports and recommendations from magistrate judges, this

court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” Id.

Rule 4(m) provides that if service is not made within 120 days of the filing of the complaint, the court “must dismiss the action *without prejudice* against that defendant. . . .” Id. (emphasis added). In accordance with the rule, the court will dismiss these defendants without prejudice.

IT IS HEREBY ORDERED that Magistrate Judge Majzoub’s report and recommendation is ADOPTED IN PART, consistent with this order.

IT IS FURTHER ORDERED that Defendants Michael Angelo, Pacific Marketing, Inc., John Does 1-10, and XYZ Corporations 1-10 are DISMISSED from this action WITHOUT PREJUDICE.

s/John Corbett O’Meara
United States District Judge

Date: January 29, 2016

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, January 29, 2016, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager